

GRANTED ISSUES

NOTE: THE WORDING OF THE ISSUES IS TAKEN VERBATIM FROM THE PARTIES' PETITIONS FOR DISCRETIONARY REVIEW.

ISSUES GRANTED AUGUST 21, 2019

19-0477 WILLIAMS, ISSAC

BEXAR

**CONTINUOUS TRAFFICKING
OF PERSONS**

1. Did Williams preserve his request for the lesser-included offense of human trafficking when he failed to identify any evidence supporting this request and denied committing any offense?
2. Did the court of appeals err by concluding that the lesser-included offense of human trafficking was a rational alternative to continuous human trafficking?
3. The court of appeals erred by automatically reversing Williams' conviction rather than applying the standard required by Almanza.

19-0478 NUNCIO, LEONARDO

WEBB

HARASSMENT

1. Justice Rodriguez's dissent contains the same criticisms of the challenged statute that were addressed in 1983 by the U.S. Fifth Circuit Court of Appeals in *Kramer v. Price*. *Kramer v. Price* struck down the previous version of Penal Code § 42.07. The defects described in Justice Rodriguez's dissent and in *Kramer v. Price* have not been resolved.
2. The Fourth Court of Appeals' decision, and the text of the challenged statute depart from accepted social norms and common understandings of the meaning of the word "harassment." The Fourth Court's majority opinion, and the challenged statute, risk the criminalization of conduct that would not generally be considered 'criminal' by people of ordinary intelligence. Further, because of this disconnect between common sense and the text of the statute, the challenged statute chills emotional speech, hyperbolic speech, metaphor, sharply critical speech and sexual overtures; TRAP § 66.3 (f).
3. Texas Courts' attempts to construe § 42.07 have led to baffling decisions that show no discernible logic or pattern that can be followed. The resulting authorities constitute a case by case evaluation of whether the subject speech makes reference to an "ultimate sex act." As a result of this lack of clear guidance, the statute is overly broad and chills too much speech.
4. The Court of Appeals should settle this important question because the statute unconstitutionally delegates prosecutorial decision-making and because the potential chilling effect is broad, TRAP § 66.3(b).

19-0572 GONZALEZ, VICTOR ORTIZ

TARRANT

AGGRAVATED ASSAULT

Can a jury charge applying an unalleged reckless culpable mental state for aggravated assault in a unitary application instruction cause egregious harm when applying that same reckless culpable mental state as a lesser-included offense would not even be error?

ALPHABETICAL LISTING WITHOUT ISSUES

<u>PDR NO.</u>	<u>NAME</u>	<u>DATE GRANTED</u>
18-0711	ADAMS, BRANDON JOSEPH	09/12/18
19-0203	ALLEN, MATTHEW JOSEPH	06/26/19
18-1042	ALLEN, RUBEN LEE	12/12/18
19-0287	ARELLANO, CESAR RAMIRO	06/05/19
18-1383	BELL, KENDALL	03/27/19
18-0561	BELTRAN DE LA TORRE, LISANDRO	10/03/18
18-0921	BUCK, MICHAEL J.	12/05/18
18-0527	BURG, JAMES ALLAN II	09/12/18
18-0577	CURRY, STEVEN	12/12/18
18-1299	DIAMOND, LESLEY ESTHER	02/13/19
18-0745	DIRUZZO, JOSEPH ANDREW	09/26/18
19-0048	DIXON, THOMAS	06/05/19
18-0831	DUNHAM, MARC WAKEFIELD	12/05/18
18-1199	EBIKAM, OBINNA	02/27/18
18-1090/91	FOREMAN, NATHAN RAY	02/13/19
19-0039	FOSTER, JOHN CHRISTOPHER	05/01/19
17-0711	FRASER, MARIAN	11/01/17
18-0035	GARCIA, FREDDY	04/11/18
19-0572	GONZALEZ, VICTOR ORTIZ	08/21/19
19-0012	HEATH, DWAYNE ROBERT	04/10/19
16-1269	HOLDER, CHRISTOPHER JAMES	06/07/17
18-1339	HOLOMAN, HAROLD WAYNE	03/20/19
18-0275/76	HUGHITT, SHANA LYNN	05/23/18
18-0642-44	INTERNATIONAL FIDELITY INS. CO.	12/12/18
18-0552	JONES, JORDAN BARTLETT	07/25/18
18-0899	JORDAN, PATRICK	12/12/18
18-0005	LITCHFIELD, MARGARET FAYE	06/06/18
18-0894	LOCH, VITH	12/05/18
18-1291	LOPEZ, MARTIN RIVERA	03/20/19
18-1382	LOPEZ, RITO GREGORY, JR.	04/10/19
19-0244/45	LUJAN, ERLINDA	06/05/19
18-1246	METCALF, LYDIA	02/06/19
18-1340	MIRANDA, CHRISTOPHER	04/10/19
19-0202	MONTELONGO, ALBERTO	05/08/19
19-0478	NUNCIO, LEONARDO	08/21/19
18-0474	PARKER, ADRIAN JEROME	06/20/18
18-0712	PIPER, MAURICE LAMAR	12/05/18
19-0012-15	RODRIGUEZ, ABEL DIAZ	04/10/19
19-0242	ROGERS, WILLIAM	06/26/19
18-0176	RUIZ, JOSE	04/25/18
18-1265	SENN, MICHAEL RAY	04/10/19
18-0578	SIMPSON, ROBIVIA LENEICE	08/22/18
18-0556	STAHMANN, KARL DEAN	10/10/18
18-0867	TIMMINS, TROY ALLEN	11/21/18
17-0399	WALKER, KENYETTA DANYELL	08/23/17
18-1015	WATKINS, RALPH DEWAYNE	12/05/18
17-1199	WILLIAMS, ANDREW LEE	03/21/18
19-0477	WILLIAMS, ISSAC	08/21/19
18-0870	WILLIAMS, JAMES E.	01/09/19
18-1247	WORK, SIDNEY ALEX	01/30/19
18-1226	ZIMMERMAN, MARK DAVID	06/26/19

NUMERICAL LISTING WITH ISSUES GRANTED

16-1269	HOLDER, CHRISTOPHER JAMES	06/07/17
APPELLANT'S	COLLIN	CAPITAL MURDER

The Court of Appeals erred in holding the State's petition to obtain the Appellant's cell phone records set forth the "specific and articulable facts" required by federal law under 18 U.S.C. section 2703(d).

17-0399	WALKER, KENYETTA DANYELL	08/23/17
STATE'S	ORANGE	ENGAGING IN ORGANIZED CRIMINAL ACTIVITY

Can a conviction for a charged, but nonexistent, offense be reformed to a subsumed and proven offense that does exist?

17-0711	FRASER, MARIAN	11/01/17
STATE'S	McLENNAN	MURDER

Can the felonies of reckless or criminally negligent injury to a child or reckless or criminally negligent child endangerment underlie a felony-murder conviction when the act underlying the felony and the act clearly dangerous to human life are one and the same?

17-1199	WILLIAMS, ANDREW LEE	03/21/18
APPELLANT'S	BRAZORIA	MANSLAUGHTER, ACCIDENT INVOLVING PERSONAL INJURY OR DEATH

The Court of Appeals erred in affirming the trial court's allowing evidence of a drug test without the testimony of the chemist who performed the testing.

18-0005	LITCHFIELD, MARGARET FAYE	06/06/18
APPELLANT'S	CORYELL	MURDER

In finding the evidence legally sufficient, did the Sixth Court of Appeals fail to consider: was the jury rationally justified in finding guilt beyond a reasonable doubt?

18-0035	GARCIA, FREDDY	04/11/18
STATE'S	HARRIS	AGGRAVATED SEXUAL ASSAULT

1. Is the constitutional harm standard the proper test for harm when there was a mere delay in the election versus no election at all and the jury is charged on a specific incident?
2. How specific must the factual rendition of a single incident in the jury charge be to serve the purposes of the election requirement?

18-0176	RUIZ, JOSE	04/25/18
STATE'S	GONZALES	DRIVING WHILE INTOXICATED

Is it unreasonable under the Fourth Amendment for an officer to rely on a driver's implied consent to a blood draw when the driver was involved in an accident, there is probable cause to believe he is intoxicated, and where the driver's own unconsciousness prevents the officer from effectively obtaining the driver's actual consent?

18-0275	HUGHITT, SHANA LYNN	05/23/18
18-0276	BROWN	ENGAGING IN ORGANIZED CRIMINAL ACTIVITY; POSSESSION OF CONTROLLED SUBSTANCE W/INTENT TO DELIVER
STATE'S		

1. Is possession with intent to deliver included as a listed predicate offense for engaging in organized criminal activity because the offense of delivery of a controlled substance in the Controlled Substances Act includes possession with intent to deliver?

18-0474
STATE'S

PARKER, ADRIAN JEROME
GREGG

06/20/18
ENGAGING IN ORGANIZED
CRIMINAL ACTIVITY;
POSSESSION OF CONTROLLED
SUBSTANCE; TAMPERING WITH
EVIDENCE

1. Is "possession with intent to deliver" a predicate offense for engaging in organized criminal activity because it falls within "unlawful manufacture, delivery...of a controlled substance," which is one of EOCA's enumerated predicate offenses?
2. Can an EOCA conviction predicated on an offense that is not a predicate be reformed to that necessarily subsumed offense?

18-0527
APPELLANT'S

BURG, JAMES ALLAN II
MONTGOMERY

09/12/18
DRIVING WHILE INTOXICATED

Does a failure to object to a driver's license suspension at trial bar complaint on appeal?

18-0552
STATE'S

JONES, JORDAN BARTLETT
SMITH

07/25/18
UNLAWFUL DISCLOSURE OF
INTIMATE VISUAL MATERIAL

1. Is Tex. Penal Code § 21.16(b) a content-based restriction on speech that is subject to strict scrutiny?
2. May a court of appeals find a statute unconstitutional based on a manner and means that was not charged?
3. Is Tex. Penal Code § 21.16(b) facially constitutional?

18-0556
STATE'S

STAHMANN, KARL DEAN
COMAL

10/10/18
TAMPERING WITH PHYSICAL
EVIDENCE

1. Where this Court and other appellate courts have found evidence sufficient to support an 'alteration' under the tampering statute when an item's physical or geographical location is changed, did Stahmann err in failing to uphold Appellant's tampering conviction based on his undisputed 'alteration' of the pill bottle's location by throwing it away from himself and the crash site, over a fence, and into a patch of shrubbery?
2. Where the "dispositive inquiry is whether law enforcement noticed the object before the defendant tried to hide it and maintained visual contact" of the object, and law enforcement only learned of the existence and location of the evidence from a third-party witness well after Appellant threw it away, did Appellant "conceal" the pill bottle?

18-0561
APPELLANT'S

BELTRAN DE LA TORRE, LISANDRO
COLORADO

10/03/18
POSSESSION OF CONTROLLED
SUBSTANCE

1. The Court of Appeals erred in holding the trial court did not improperly comment on the evidence by providing a jury instruction on "joint possession" that added to the statutory definition of "possession."
2. The Court of Appeals erred in alternatively holding it was not error to refuse Appellant's requested jury instruction on "mere presence" while holding the jury instruction on "joint possession" was appropriate.

18-0577
APPELLANT'S

CURRY, STEVEN
HARRIS

12/12/18
FAILURE TO STOP AND RENDER
AID

1. The Court of Appeals erred in determining that the evidence was sufficient to support Appellant's conviction for accident involving injury – failure to stop and render aid.
2. The Court of Appeals erred in affirming the trial court's refusal to give jury instruction on mistake of fact.

18-0578
STATE'S

SIMPSON, ROBVIA LENEICE
ANDERSON

08/22/18
ASSAULT ON PUBLIC
SERVANT,
AGGRAVATED ASSAULT

Does *Doan* apply when a defendant enters a plea of "true" to new criminal offenses in a motion to proceed or probation revocation and does the true plea legally bind the defendant guilty in the new criminal offenses?

18-0642
INTERNATIONAL FIDELITY

12/12/18

18-0643	INSURANCE CO. (AGENT:	
18-0644	GLENN STRICKLAND) DBA A-1 BONDING	
APPELLANT'S	HARRIS	BOND FORFEITURE

The Texas Court of Criminal Appeals should accept this petition for discretionary review. Rule 66.3 of the Texas Rules of Appellate Procedure states that the following will be considered by the court in deciding whether to grant discretionary review:

(f) whether a court of appeals has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of the Court of Criminal Appeals' power of supervision.

These cases were selected to address an issue reserved by this Court in *Safety Nat'l Cas. Corp. v. State*, 305 S.W.3d 586 (Tex. Crim. App. 2010). The issue was raised by motion to retax costs and a motion for new trial. There was a contested hearing in which evidence was offered before the trial court. The parties stipulate that they requested a court reporte[r] and that a court reporte[r] appeared to transcribe the hearing at issue. However, when the record was filed before the court of appeals, no reporter's record was filed. The record was the subject matter of the hearing that was the issue to be appealed to the court of appeals. Without the record, it was presumed that all of the evidence offered supported the trial court's ruling. Therefore, the petitioner asked for a new trial. The court of appeals denied the request. This was error.

18-0711	ADAMS, BRANDON JOSEPH	09/12/18
STATE'S	TAYLOR	AGGRAVATED ASSAULT

When a defendant is acquitted on a defense of a third person theory after stabbing a person engaged in a fight with a friend, does the collateral estoppel component of the Double Jeopardy Clause as articulated in *Ashe v. Swenson* and this Court's opinions bar his subsequent prosecution for stabbing another person who was not fighting?

18-0712	PIPER, MAURICE LAMAR	12/05/18
APPELLANT'S	DALLAS	MANSLAUGHTER

In concluding that Piper's trial counsel may have had a reasonable strategic reason for failing to request a voluntary-conduct charge instruction, the court of appeals reasoned that attorneys are under no duty to raise every defense available. But counsel *did* raise a voluntary-conduct defense — he just didn't then ask for the corresponding charge instruction. In ignoring this, did the court of appeals so far depart from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's power of supervision?

18-0745	DIRUZZO, JOSEPH ANDREW	09/26/18
APPELLANT'S	VICTORIA	ILLEGAL PRACTICE OF MEDICINE

1. When a statute, Section 165.152 of the Texas Occupations Code, generally proscribes conduct that is also proscribed by a more specific statute, Section 165.153 providing for a lesser range of punishment, is it a violation of due process and due course of law to punish the offender in accordance with the broader statute calling for a greater range of punishment?

2. Is it ever proper for a Court to construe a statute, Section 165.153 of the Texas Occupations Code, in a manner that renders the entire statute superfluous?

18-0831	DUNHAM, MARC WAKEFIELD	12/05/18
APPELLANT'S	HARRIS	DECEPTIVE BUSINESS PRACTICE

1. The evidence is legally insufficient to sustain Appellant's conviction for deceptive business practice where Appellant did not make any affirmative mis-representation, the State's theory of liability was based on an omission rather than an act, and the complainant accurately understood the commercial terms when the transaction occurred.

2. Whether deceptive business practice is a "nature-of-conduct" or "circumstance-of-conduct" offense and whether the jury must agree unanimously that the defendant committed the same specific act of deception to convict him. (C.R. 87-88; 4 R.R. 103-08).

18-0867	TIMMINS, TROY ALLEN	11/21/18
APPELLANT'S	BANDERA	FAILURE TO APPEAR & BAIL JUMPING

In an issue of first impression, did the court of appeals correctly determine that the evidence is legally sufficient to support a conviction for “failure to appear & bail jumping” when a trial court revokes a defendant’s bail in open court, remands the defendant to jail, and the defendant fails to report to jail as ordered?

18-0870 **WILLIAMS, JAMES E.** **01/09/19**
STATE’S **TARRANT** **ATTEMPTED KIDNAPPING**

1. The trial court's order correcting its prior judgment was signed while the trial court retained plenary power. Although labeled as a "Nunc Pro Tunc Order," the court of appeals concluded that the order was merely a modification of the judgment and not an order "nunc pro tunc." The court of appeals reasoned that a "nunc pro tunc" order/judgment, by definition, can only be entered after the trial court loses plenary power. Texas case law and the rules of appellate procedure suggest that the majority is incorrect. This Court should clarify the issue.

2. Trial court's order correcting a clerical error in the judgment is a valid nunc pro tunc order. Under Texas law, a nunc pro tunc order is an "appealable order" under Tex. R. App. P. 26.2 (a)(1). As such, Appellant had 30 days to file his notice of appeal. Because Appellant's notice of appeal was untimely, isn't the dissenting opinion of the Second Court of Appeals correct in concluding that Appellant's appeal should have been dismissed for lack of jurisdiction?

18-0894 **LOCH, VITH** **12/05/18**
STATE’S **HARRIS** **MURDER**

1. Is the failure to admonish about immigration consequences under Tex. Code Crim. Proc. art. 26.13(a)(4) harmful when the defendant was already deportable at the time of his guilty plea due to prior convictions?

2. Is the failure to admonish about immigration consequences under Tex. Code Crim. Proc. art. 26.13(a)(4) harmful when the defendant knew he was already deportable at the time of his guilty plea due to prior convictions?

3. Was the failure to admonish about immigration consequences under Tex. Code Crim. Proc. art. 26.13(a)(4) harmful when Appellant was already deportable, the evidence of guilt was overwhelming, and he was morally motivated to plead guilty?

18-0899 **JORDAN, PATRICK** **12/12/18**
APPELLANT’S **BOWIE** **DEADLY CONDUCT**

1. What quantum of evidence must the accused present to avail himself of self-defense/defense of others when the alleged victim was not a primary threat?

2. Does a Defendant's intent to exercise self-defense/defense of others transfer to other assailants when the Defendant is only confronted with the fists of the primary threat?

18-0921 **BUCK, MICHAEL J.** **12/05/18**
APPELLANT’S **EL PASO** **AGGRAVATED SEXUAL
ASSAULT (2 CTS)**

1. By holding that Michael's waiver of the right to appeal was enforceable and that the trial court's "admonishment" that induced Michael to plead guilty did not violate Due Process and Article 26.13, the Eighth Court's opinion conflicts with decisions from this Court and the United States Supreme Court.

2. By holding that Michael's waiver of the right to appeal was enforceable and by ruling that the trial court's misstatements about its ability to cumulate the sentences—made as it sought to induce Michael to plead guilty—did not invalidate the plea, the Eighth Court's opinion creates direct conflicts with other courts of appeals on issues now pending before this Court.

3. By relying directly on bad/outdated law for the timing of an election and on the impossible scenario of the court sentencing Michael even if he pleaded guilty to the jury to reject Michael's appeal, and by not addressing Michael's argument that the trial court coerced him to plead guilty after he said he wanted a trial on trial day, the Eighth Court's opinion departs from an acceptable course of judicial proceedings and calls for this Court to exercise its power of supervision.

18-1015 **WATKINS, RALPH DEWAYNE** **12/05/18**
APPELLANT’S **NAVARRO** **POSSESSION OF CONTROLLED
SUBSTANCE**

While reviewing a violation of the Michael Morton Act, the Court of Appeals erred in its materiality analysis.

18-1042	ALLEN, RUBEN LEE	12/12/18
APPELLANT'S & STATE'S	HARRIS	AGGRAVATED ROBBERY

Appellant's Ground for Review:
Whether the First Court of Appeals erred when it misinterpreted Peraza v. State, 467 S.W.3d 508 (Tex. Crim. App. 2015) and failed to apply Salinas v. State, 523 S.W.3d 103 (Tex. Crim. App. 2017) in determining that the summoning witness/mileage fee under Texas Code of Criminal Procedure Article 102.011 was not facially unconstitutional because the court cost was for a direct expense incurred by the State even though the statute does not direct the funds collected to be used for a legitimate criminal justice purpose?

State's Ground for Review:
This Court should overrule Carson, Peraza, and Salinas and return to the original understanding of Article II Section I of the Texas Constitution, which did not impose limitations on the Legislature's ability to assess court costs.

18-1090	FOREMAN, NATHAN RAY	02/13/19
18-1091	HARRIS	AGGRAVATED ROBBERY
STATE'S		AGGRAVATED KIDNAPPING

1. The Fourteenth Court erred by holding that a magistrate could not infer from the warrant affidavit that an auto body shop would have a surveillance system. The Fourteenth Court held that before a magistrate could consider common knowledge, the matter must be "beyond dispute," a civil standard the Fourteenth Court grafted onto Fourth Amendment law.
2. The Fourteenth Court erred by holding that when officers see a surveillance system recording a location where crime occurred two weeks prior, they do not have probable cause to seize the system's hard drive unless they know what is on the hard drive prior to examining it.
3. The Fourteenth Court erred by holding that the error required reversal, even under the standard for non-constitutional error, where the State's remaining evidence was overwhelming and the defense non-existent.

18-1199	EBIKAM, OBINNA	02/27/19
APPELLANT'S	BEXAR	ASSAULT

Whether a defendant's failure to admit the exact manner and means of an assault as set forth in a charging instrument is a sufficient basis to deny a jury charge on self-defense.

18-1226	ZIMMERMAN, MARK DAVID	06/26/19
APPELLANT'S	GRAYSON	POSSESSION W/INTENT TO DELIVER, POSSESSION (3CTS)

The Fifth District Court of Appeals erred by affirming the trial court's decision in denying Appellant's motion to suppress.

18-1246	METCALF, LYDIA	02/06/19
STATE'S	PANOLA	SEXUAL ASSAULT

The court of appeals erred by striking down the jury's verdict that Metcalf was guilty as a party for the sexual assault of her daughter.

18-1247	WORK, SIDNEY ALEX	01/30/19
APPELLANT'S	MILLS	POSSESSION OF CONTROLLED SUBSTANCE; TAMPERING W/EVIDENCE

1. The Court of Appeals erred when it held that prior possession and use of contraband may be admitted to prove knowledge of contraband and intent to possess contraband under Rules 403 and 404(b) of the Texas Rules of Evidence.
2. The Court of Appeals erred when it held that prior possession and use of contraband may be admitted under Rules 403 and 404(b) of the Texas Rules of Evidence to rebut the defensive theory that the defendant lacked knowledge of the presence of contraband.
3. The Court of Appeals erred when it held that prior possession and use of contraband may be admitted under Rules 403 and 404(b) of the Texas Rules of Evidence to prove the identity of the person who possessed the contraband.

4.The Court of Appeals erred when it held that prior possession and use of contraband may be admitted under the doctrine of chances.

18-1265 SENN, MICHAEL RAY 04/10/19
STATE'S TARRANT SEXUAL ASSAULT

1. The court of appeals erred in concluding that section 22.011(f) of the Texas Penal Code requires the State to prove commission of an actual bigamy offense to elevate Appellant's punishment range for sexual assault to a first-degree felony offense.
2. The court of appeals' decision requiring the State to prove an actual bigamy offense under section 22.011(f) of the Texas Penal Code is contrary to *Arteaga v. State*, 521 S.W.3d 329 (Tex. Crim. App. 2017).
3. The court of appeals erred in disregarding the clarification contained in footnote 9 of *Arteaga* merely because it was relegated to a footnote.

18-1291 LOPEZ, MARTIN RIVERA 03/20/19
STATE'S BEXAR ASSAULT

1. The court of appeals erred by concluding that a 112 day delay was presumptively prejudicial based on potential delay that had not yet occurred and by weighing the first Barker factor against the State.
2. The court of appeals erred by concluding that the State was responsible for the delay and by weighing the second Barker factor against the State.
3. The court of appeals erred by weighing the third Barker factor against the State without any evidence that Lopez asserted his right to a speedy trial.

18-1299 DIAMOND, LESLEY ESTHER 02/13/19
STATE'S HARRIS DRIVING WHILE INTOXICATED

The majority opinion is erroneous because it results from an incorrect application of the standard of review.

18-1339 HOLOMAN, HAROLD WAYNE 03/20/19
STATE'S ANDERSON ASSAULT

Is a prior conviction for family violence under TEX. PENAL CODE § 22.01(b)(2)(A) always a guilt issue simply because it can be, and often is, used as a jurisdictional element?

18-1340 MIRANDA, CHRISTOPHER 04/10/19
STATE'S EL PASO IMPROPER RELATIONSHIP
BETWEEN EDUCATOR AND
STUDENT, SEXUAL ASSAULT,
SEXUAL PERFORMANCE
BY A CHILD

In holding the evidence legally insufficient to support two of Miranda's convictions, the Court of Appeals did not follow this Court's case of *Miller v. State*, 457 S.W.3d 919 (Tex.Crim.App. 2015), concerning the closely-related-crimes exception to the *corpus delicti* rule, improperly holding that the exception did not apply because the temporal relationship of one year between the offenses was too long, even though they were all part of a single criminal episode, and there were multiple victims who were not aware of each other.

18-1382 LOPEZ, RITO GREGORY, JR. 04/10/19
STATE'S MOORE SEXUAL ASSAULT

Does the enhancement under Penal Code § 22.011(f) require the State to prove the defendant committed bigamy?

18-1383 BELL, KENDALL 03/27/19
STATE'S HARRIS AGGRAVATED ROBBERY

1. May appellant mount a jurisdictional attack on the certification order without having filed a timely motion in bar of prosecution as required by Texas Code of Criminal Procedure Article 4.18?

2. Does *Manuel v. State* and its progeny apply to Texas Code of Criminal Procedure Article 44.47 to procedurally default appellant from raising claims upon revocation that he could have pursued an appeal from the order of deferred adjudication?

19-0012 HEATH, DWAYNE ROBERT 04/10/19
APPELLANT'S McLENNAN INJURY TO A CHILD

1. Did the court of appeals err by reversing the trial court's discovery sanction order under a theory not raised by the State?
2. Was Appellee's discovery request sufficient under the Michael Morton Act?
3. Is the State estopped to challenge the sufficiency of Appellee's discovery request because it produced discovery in response to the request?

19-0013 RODRIGUEZ, ABEL DIAZ 04/10/19
19-0014
19-0015
APPELLANT'S GALVESTON SEXUAL ASSAULT

Did the court of appeals err in concluding that the enhanced penalty provision for sexual assault under Section 22.011(f) does not require proof of bigamous conduct and can be triggered solely by evidence that Petitioner was married at the time the offense was committed?

19-0039 FOSTER, JOHN CHRISTOPHER 05/01/19
STATE'S TRAVIS AGGRAVATED ASSAULT

1. Is a defendant entitled to a jury instruction on self-defense when he testifies that he did not commit the charged offense and, at most, he admits to committing a separate lesser-included offense?
2. Does an appellate court correctly apply the standard of review for harm when it fails to consider significant evidence of guilt and the defensive theory put forth at trial, which was that the defendant did not commit the charged offense, not that he committed it in self-defense?

19-0048 DIXON, THOMAS 06/05/19
STATE'S LUBBOCK CAPITAL MURDER

1. Did the court of appeals err in finding Appellant's Sixth Amendment right to a public trial was violated on three separate occasions despite evidence showing that: (1) Appellant did not preserve error for two of the three partial closures; (2) members of the public were in fact watching the proceedings during each of the three partial closures; and (3) the trial court made adequate findings to support the partial closures?
2. Did the court of appeals err in its harm analysis by overemphasizing the impact of the admission of the CSLI evidence as important to impeach Appellant's credibility when Appellant's credibility was damaged from the outset, and the admission of the CSLI evidence was limited and merely cumulative of other evidence showing Appellant's relationship with and proximity to the co-defendant?

19-0202 MONTELONGO, ALBERTO 05/18/19
APPELLANT'S EL PASO ATTEMPTED CAPITAL
MURDER,
ASSAULT

Whether or not the 8th Court of Appeals erred in finding that Appellant waived his right to a hearing on a properly presented and filed motion for new trial?

19-0203 ALLEN, MATTHEW JOSEPH 06/26/19
APPELLANT'S COLLIN CONTINUOUS SEXUAL ABUSE
OF YOUNG CHILD,
INDECENCY W/CHILD

2. The panel erred when it failed to find the evidence was legally insufficient to support the jury's finding of guilt beyond a reasonable doubt as to each and every element of the offense of indecency with a child by sexual contact, especially considering the panel unilaterally substituted a date of offense contradictory to the indictment and the court's charge which created double jeopardy issues.

19-0242	ROGERS, WILLIAMS	06/26/19
APPELLANT'S	REFUGIO	BURGLARY OF HABITATION

Did the Court of Appeals err in the analysis for error considering the evidence in the record of the case?

19-0244	LUJAN, ERLINDA	06/05/19
19-0245	EL PASO	ENGAGING IN ORGANIZED
STATE'S		CRIMINAL ACTIVITY (2);
		TAMPERING W/HUMAN CORPSE
		TAMPERING W/EVIDENCE

The Eighth Court erred in upholding the trial court's ruling that the second, in-car session of Lujan's interview was not a continuation of the first, interview-room session, because: (1) under the *Bible* factors, the second-session interview was a continuation of the first; and (2) requiring police to re-*Mirandize* a suspect if the police engage in ambiguous conduct that *could be* construed as terminating, or setting a temporal limitation on, the interrogation (and attendant *Miranda* rights) undermines the ease and clarity of *Miranda's* application by requiring officers to continually second-guess whether they made any such potentially ambiguous statements.

19-0287	ARELLANO, CESAR RAMIRO	06/05/19
STATE'S	VICTORIA	DRIVING WHILE INTOXICATED

1. Does Texas Code of Criminal Procedure Article 38.23(b), the "good faith" exception, apply to warrants that do not have the magistrate's name printed or typed under his signature?
2. In a motion to suppress evidence obtained with a warrant, does the defendant bear the burden of negating the "good faith" exception?
3. Does Texas Code of Criminal Procedure Article 28.01, § 1(6), governing hearings on motions to suppress, allow a trial court to ignore a mode of evidence it made necessary?
4. The court of appeals should abate and remand to the trial court for findings and conclusions requested by the State.

19-0477	WILLIAMS, ISSAC	08/21/19
STATE'S	BEXAR	CONTINUOUS TRAFFICKING
		OF PERSONS

1. Did Williams preserve his request for the lesser-included offense of human trafficking when he failed to identify any evidence supporting this request and denied committing any offense?
2. Did the court of appeals err by concluding that the lesser-included offense of human trafficking was a rational alternative to continuous human trafficking?
3. The court of appeals erred by automatically reversing Williams' conviction rather than applying the standard required by *Almanza*.

19-0478	NUNCIO, LEONARDO	08/21/19
APPELLANT'S	WEBB	HARASSMENT

1. Justice Rodriguez's dissent contains the same criticisms of the challenged statute that were addressed in 1983 by the U.S. Fifth Circuit Court of Appeals in *Kramer v. Price*. *Kramer v. Price* struck down the previous version of Penal Code § 42.07. The defects described in Justice Rodriguez's dissent and in *Kramer v. Price* have not been resolved.
2. The Fourth Court of Appeals' decision, and the text of the challenged statute depart from accepted social norms and common understandings of the meaning of the word "harassment." The Fourth Court's majority opinion, and the challenged statute, risk the criminalization of conduct that would not generally be considered 'criminal' by people of ordinary intelligence. Further, because of this disconnect between common sense and the text of the statute, the challenged statute chills emotional speech, hyperbolic speech, metaphor, sharply critical speech and sexual overtures; TRAP § 66.3 (f).
3. Texas Courts' attempts to construe § 42.07 have led to baffling decisions that show no discernible logic or pattern that can be followed. The resulting authorities constitute a case by case evaluation of whether the subject speech makes reference to an "ultimate sex act." As a result of this lack of clear guidance, the statute is overly broad and chills too much speech.
4. The Court of Appeals should settle this important question because the statute unconstitutionally delegates prosecutorial decision-making and because the potential chilling effect is broad, TRAP § 66.3(b).

19-0572
STATE'S

GONZALEZ, VICTOR ORTIZ

TARRANT

08/21/19
AGGRAVATED ASSAULT

Can a jury charge applying an unalleged reckless culpable mental state for aggravated assault in a unitary application instruction cause egregious harm when applying that same reckless culpable mental state as a lesser-included offense would not even be error?